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September 29, 2014

VIA ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
Room TW-A325
445 12th Street, S.W.
Washington, DC 20554

**Re: Media Bureau Seeks Comment on Issues Raised by Certain
Programmers and Broadcasters Regarding the Production of Certain
Documents in Comcast-Time Warner Cable–Charter and AT&T-
DirecTV Transaction Proceedings, DA 14-1383, MB Docket Nos. 14-
57 and 14-90 (rel. Sept. 23, 2014)**

Dear Ms. Dortch:

CenturyLink respectfully files this letter in response to the Media Bureau’s Public Notice referenced above.

One point must be central to the Commission’s resolution of this issue: the Commission must preserve the ability of commenters to review the documents at issue, subject to whatever reasonable protections the Commission concludes are warranted. As the Commission is well aware, it has an independent statutory obligation under 47 U.S.C. § 310(d) to evaluate whether this transaction is in the public interest. A core part of the discharge of that obligation is the creation of an independent record, and the ability of interested parties to make informed comments based on that record.¹ Indeed, in its Public Notice, the Commission made clear that it was seeking input from interested parties “to assist the Commission” in evaluating the public interest issues in this transaction.² It is notable in this regard that, in the relevant ex parte, the programmers have cited no prior instance, much less an analogous one, where the Commission has precluded private parties from reviewing in any way an entire set of information that the Commission has determined is relevant to its review.

¹ E.g., Memorandum Opinion and Order, *Applications of Comcast Corporation, General Electric Company and NBC Universal, Inc.; For Consent to Assign Licenses and Transfer Control of Licensees*, 26 FCC Rcd 4238, 4258 ¶ 45 (2011) (“All adjudicatory findings are fact specific and based on the evidence in the record in a specific matter.”)

² Public Notice, MB Docket No. 14-57, at 3 (July 10, 2014).

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The importance of informed public input is heightened where, as here, the issue involves programming agreements that are central to the Commission's evaluation of whether the transaction is in the public interest. As CenturyLink and other parties have emphasized, the effect of a merger of Comcast and TWC on programming costs – and, in particular, the disparity in programming costs between the post-merger entity and its MVPD competitors – is crucial to this case. Preventing interested parties from reviewing and assisting the Commission in evaluating the significance of documents relevant to that issue would be unfair and would lead to less informed, less transparent, and less credible decisionmaking by the Commission.

In sum, CenturyLink does not object to reasonable confidentiality protections (though it is unclear why the Commission's established methods are inadequate), but the Commission must not deprive interested parties of the opportunity to review and comment on these materials.

Sincerely,

/s/ Tiffany West Smink

cc: (via e-mail)

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